

DATE: May 8, 2018**FILE:** 3090-20/DV 6C 17**TO:** Chair and Directors
Electoral Areas Services CommitteeSupported by James Warren
Acting Chief Administrative Officer**FROM:** James Warren
Acting Chief Administrative Officer***J. Warren*****RE:** Conversion of Ownership to Cooperative Interest Request
8922 and 8926 Clarkson Avenue (Sea Esta Private Resort Corporation)
Lot 1, District Lot 221, Comox District, and of part of the bed of the Strait of
Georgia, Plan 35057, PID 000-318-434**Purpose**

To consider the conversion of ownership of an existing single detached dwelling from fee-simple to cooperative interest.

Recommendation from the Chief Administrative Officer:

THAT the board approve the conversion to cooperative interest of the previously occupied single detached dwelling on the property described as Lot 1, District Lot 221, Comox District, and of part of the bed of the Strait of Georgia, Plan 35057, PID 000-318-434 (8922 and 8926 Clarkson Avenue).

Executive Summary

- The subject property, located at 8922 and 8926 Clarkson Avenue (Figures 1 and 2), is a tourist commercial resort with 19 Recreational Vehicle (RV) sites, a single detached dwelling, an office, a washroom building and nine sheds (Figure 3).
- A corporation, with shareholders, owns this property. A shareholder has exclusive use of a specific RV site or the single detached dwelling, as well as the common property.
- For the single detached dwelling, the conversion to a cooperative interest is currently not compliant with Section 6(2) of *Real Estate Development Marketing Act* (REDMA), in which a developer must not market a cooperative interest of a previously occupied building unless the local government has given approval for such a conversion.
- Planning staff supports the conversion, as it would not affect the continual operation of the tourist commercial resort, and the single detached dwelling is deemed safe for the occupants.
- Note that seven of the nine existing sheds on the property do not meet the minimum lot line setbacks and were not constructed or installed with the benefit of a tourist commercial development permit. For sheds within 30.0 metres of the Strait of Georgia, the sheds would also require an Aquatic and Riparian Habitat Development Permit. Planning staff will present a separate report on these sheds in a future meeting.

Prepared by:

Concurrence:

B. Chow***A. Mullaly***Brian Chow, MCIP, RPP
Rural PlannerAlana Mullaly, M.Pl., MCIP, RPP
Acting General Manager of Planning and
Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

The subject property, located at 8922 and 8926 Clarkson Avenue in Electoral Area C (Figures 1 and 2), is currently an RV campground with a single detached dwelling. The subject property has 19 RV sites, a single detached dwelling, an office, a washroom building and nine sheds (Figure 3). Air photos submitted by the applicant indicate that the resort use existed as far back as 1964. The property is bounded by Seaman Road to the north, Strait of Georgia to the east, tourist commercial lots to the south and residential lots to the west. It is in the Black Creek/Oyster Bay Water Local Service Area and Black Creek/Oyster Bay Fire Protection Local Service Area; it relies on a private septic system.

During the research of the Saratoga Miracle Beach Local Area Plan (LAP), it was brought to staff's attention that the resort had real estate listings for RV sites and the single detached dwelling. Upon further research, staff found out that the resort has been selling shares in cooperative interests of the resort corporation: a shareholder has exclusive use of a specific RV site or the single detached dwelling, as well as the common property.

This prompted staff to contact the owner, Sea Esta Private Resort Corporation, as there is a need for the local government to approve the conversion of the previously occupied building (i.e., the single detached dwelling).

Real Estate Development Marketing Act Analysis

The provincial REDMA, which came into force on January 1, 2005, is a consumer protection legislation designed to protect purchasers buying development units. REDMA is administered by the Superintendent of Real Estate. REDMA applies to all development units marketed in BC, and all forms of interests in land, such as building strata lots, time share interests and cooperative interests. Section 6(2) states:

“...a developer must not market a cooperative interest that is created or intended to be created by the conversion of a previously occupied building in British Columbia, unless, in relation to the cooperative interest, an approving authority has given approval for the conversion.”

The lot was held as a fee simple ownership until the current owner, Sea Esta Private Resort Corporation, filed a disclosure statement, dated April 30, 2012 and amended on March 25, 2013, to change the ownership type to a cooperative interest. With this arrangement, the resort began selling shares in cooperative interests, whereby a shareholder has exclusive use of a specific RV site or the single detached dwelling, as well as the common property.

The conversion is not compliant with Section 6(2) of REDMA, as the Comox Valley Regional District (CVRD) has not given approval for the conversion of the previously occupied building, which is the single detached dwelling. The owner has submitted a request to the CVRD Board to retroactively approve the conversion of the single detached dwelling to cooperative interest.

Based on the focus of REDMA to protect purchasers, building officials conducted two site visits of the single detached dwelling to ensure that the building is safe for the occupants. The air photos supplied by the applicant indicate that the single detached dwelling was constructed prior to the first building bylaw (Bylaw No. 144) that was in effect in the area on December 23, 1974. Only repairs, not requiring a building permit, have been undertaken since then. The building officials report that the building is safe for the occupants' residential use (Appendix A).

Planning staff considers that the conversion does not undermine the intent of the CVRD Regional Growth Strategy (RGS), Rural Comox Valley Official Community Plan (OCP), and the Zoning Bylaw, in so far as the conversion relates to a change of ownership type and not the use of the property as tourist commercial. This will remain true as long as the owner continues to operate the campground as a business, open to the travelling public with temporary occupancy of 50 per cent of the total possible occupancy limited to a maximum stay of six months per visitor for any 12 month period. The remaining 50 per cent is to be limited to stays with durations shorter than six months. Given these factors, planning staff supports the conversion of the single detached dwelling to cooperative interest.

Official Community Plan Analysis

The OCP designates the subject property within the Saratoga Miracle Beach Settlement Node. An objective of this designation is to implement the RGS by directing most growth in the electoral areas to the settlement nodes.

The draft LAP designates the subject property within the Tourist Commercial designation, which provides for coastal tourism activities including medium density tourist accommodations and related commercial activities. The RV campground use is consistent with this proposed designation.

Zoning Bylaw Analysis

The subject property is zoned Tourist Commercial One (TC-1). The conversion of ownership type does not affect tourist commercial use of the property, provided that the owner continues to operate the campground as a business, following the regulations contained in the TC-1 zone.

The single detached dwelling, office building, washroom building and two sheds (labelled as A and B of Figure 3) existed prior to the first zoning bylaw being in effect (i.e., June 28, 1976; Bylaw No. 202). The remaining seven sheds (labelled as C to I on Figure 3) do not meet the minimum lot line setbacks. For these sheds, planning staff will prepare a separate staff report, as these sheds do not have the benefit of the Tourist Commercial Development Permit. For sheds that are within 30.0 metres of the Strait of Georgia, they would need an Aquatic and Riparian Habitat Development Permit.

Policy Analysis

Section 6(2) of REDMA states,

“...a developer must not market a cooperative interest that is created or intended to be created by the conversion of a previously occupied building in British Columbia, unless, in relation to the cooperative interest, an approving authority has given approval for the conversion.”

For the subject property, the existing single detached dwelling has been previously occupied. As such, the conversion to cooperative interest would need the CVRD Boards approval.

Options

The board could either approve or deny the requested conversion of the existing single detached dwelling to cooperative interest. Staff recommends approval of the conversion.

Financial Factors

The inspection fee for the building official is authorized by “Comox Valley Regional District Building Bylaw No. 142, 2011.”

Legal Factors

The report and recommendations contained herein are in compliance with the *Local Government Act* (RSBC, 2015, c. 1) (LGA) and the CVRD bylaws. Section 6(2) of REDMA requires local government approval for the conversion of a previously occupied building to cooperative interest.

Regional Growth Strategy Implications

The RGS designates the subject property within the Saratoga Miracle Beach Settlement Node. The growth management framework is to direct 90 per cent of growth in core settlement areas, which include this settlement node.

Intergovernmental Factors

If the board approves the conversion of the single detached dwelling to cooperative interest, staff will notify the Superintendent of Real Estate of BC.

Interdepartmental Involvement

The ownership type conversion request was referred to relevant internal departments. No concerns were identified.

Citizen/Public Relations

Public consultation is not required for the request to convert the ownership type under Section 6(2) of REDMA.

Attachment: Appendix A – “Building Official Report for the Single Detached Dwelling”



Figure 1: Subject Property Map



Figure 2: Air Photo

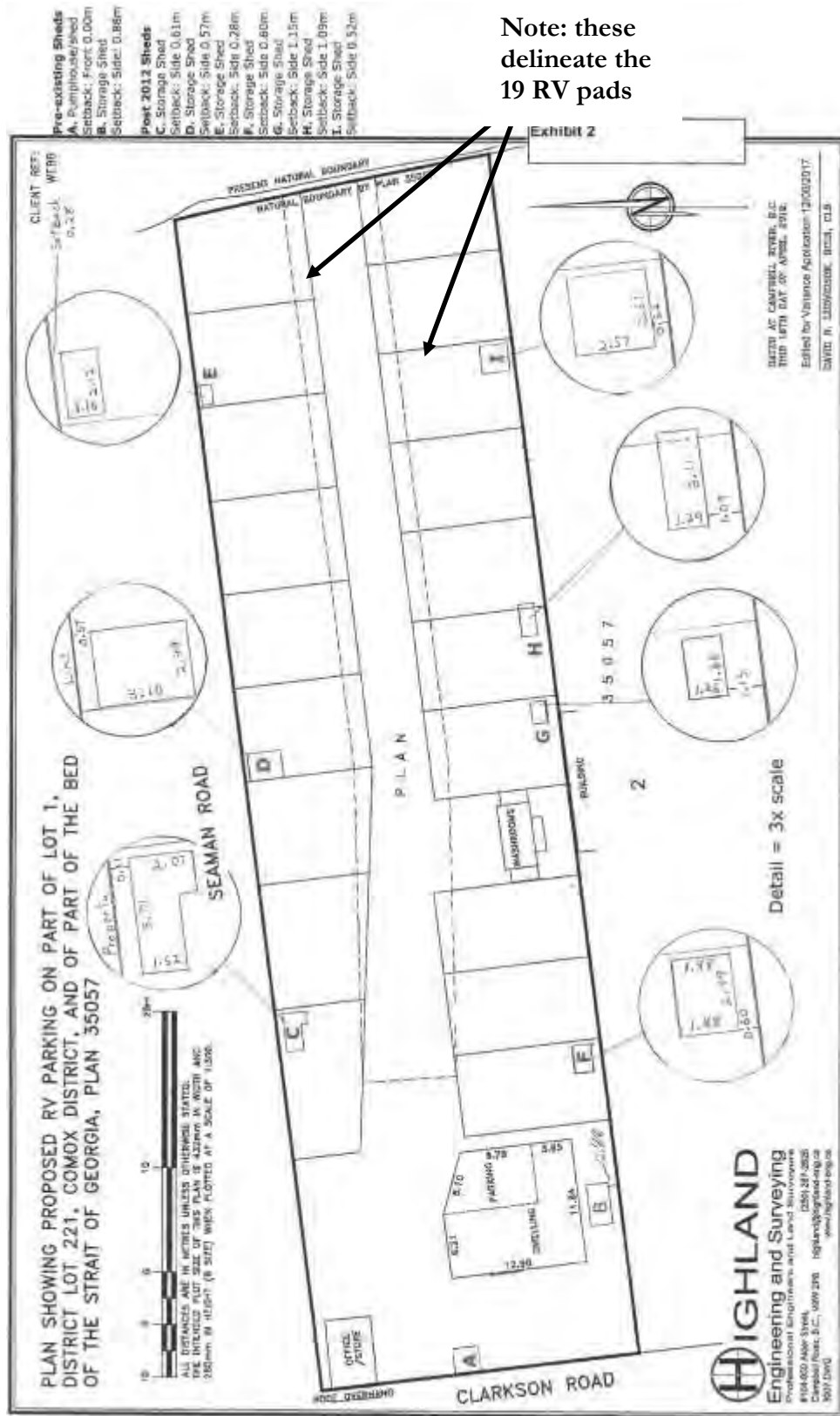


Figure 3: Site Plan

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www.comoxvalleyrd.ca



Building Inspector Report

File: 3800-20200
Roll: 771-03495.830

January 25, 2018

Owner: Sea Esta Private Resort Corporation, Inc. No. BC0921343

**Re: 8926 Clarkson Ave, Black Creek, BC V9J 1B1
Lot 1, District Lot 221, Comox District, and of part of the bed of the Strait of Georgia,
Plan 35057**

A site inspection was carried out on January 4, 2018 for the purpose of reporting on the condition of the existing dwelling located on the property. Present were Ruth (current occupant of the dwelling) and Pat O’Gorman representing the owners, Brian Chow and John Crockford representing the CVRD.

In conversation with the owners and observation of the structure the following was noted:

- The structure was originally constructed in the 1950’s
- Renovations were completed in 2012 by Ruth’s husband, a licensed contractor
- The renovations involved new windows and doors in existing openings, new insulation and VB, upgrade of cabinets and fixtures, new drywall and paint, exterior cladding and an upgrade of the electrical.
- Natural gas was supplied to dwelling for the hot water on demand system and a fireplace.
- Smoke alarms were noted outside of each bedroom.

The BCBC states for existing buildings” *where a building is altered, rehabilitated, renovated or repaired, or there is a change in occupancy, the level of life safety and building performance shall not be decreased below a level that already exists”.*

The original structure was constructed prior to the British Columbia Building Code and the noted work would not have decreased the level of life safety and performance.

The overall condition of the structure seems good and appears to have been maintained.

A handwritten signature in blue ink, appearing to read 'Dennis Mirabelli', is written over a faint circular stamp.

Dennis Mirabelli, RBO, CRBO
Manager of Building Services
Planning and Development Services Branch